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公司社会责任的法律规制

The Legal Regulation of Corporate Social Responsibility

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## 摘 要

“公司社会责任”自提出以来，一直是各国公司经营者、股东、经济学者、法学者、立法者、社会各界和国际组织关注的热点。目前，世界许多国家已通过立法、判例将公司社会责任法制化，国际组织也制定了相关的规则，督促各国实现公司的社会责任。

我国对公司社会责任的认识晚于许多西方国家。随着社会主义市场经济的建立和持续改革开放，特别是加入世界贸易组织后，明确公司应承担社会责任并将其法制化是不可回避的客观要求。

本文首先论证了公司社会责任的正当性与法律规制的必要性，认为：一方面，承担社会责任有益实现公司“经济人”的利益需求，公司承担社会责任有益协调现代公司股权结构中的多元利益关系，有益公司提高运营效率；另一方面，承担社会责任是公司“社会人”的应有责任，“社会本位”要求公司承担社会责任，公司也有推动社会权实现的义务。基于公司社会责任存在的正当性，进一步论证对公司社会责任进行法律规制是必要的。法律与道德都是社会规则，法律是最低限度的道德，既然不反对公司应承担社会责任，那么，将符合人类社会发展的基本要求的内容（如保证劳动安全、控制污染、保护消费者等）法律化，成为公司必须遵守的强制性义务是必须的。同时，经济发展的客观现实要求公司社会责任的法制化，以保证公司创造利益增值的过程对推进我国经济增长、丰富民众生活内容都起到积极的作用。

美国、德国等其他国家及欧洲联盟都有法律规制公司社会责任的实践活动，论文介绍了这些实践活动的内容，并总结了国外对公司社会责任法制规范可借鉴的经验：将公司社会责任法制化是对社会需求的确认；法律规制的内容及方式应多样化。

建国以来，我国公司社会责任的立法现状表现在：“公司承担社会责任”明确入律、保护与公司利益相关者的利益、强制、激励或敦促公司承担社会责任。当然，需要不断完善我国公司社会责任的法律规制，应注意几个问题：提倡公司社会责任法律性与道德性并重、端正公司社会责任立法的价值取向、提倡政府职

能部门、行业协会、新闻媒体等非盈利机构对公司社会责任的规范作用。

结合本人的工作实践，论文对中化化肥有限公司履行社会责任的实践进行了分析，为完善中化化肥有限公司履行社会责任的制度建设提供参考。

**关键词：**公司；社会责任；法律规制

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## **Abstract**

**The “Corporate Social Responsibility”**, since has been proposed, is always the hot spot which attracts the attention of the company exploiters, the shareholders, the economical scholars, the legal scientists, the legislators, and the public figures from all walks of life as well as the international organizations all over the world. At present, lots of countries have realized the legalization of their “Corporate Social Responsibility” through the legislation and the precedent legal cases, at the same time, the international organizations have also formulated the related rule and regulation in order to play a supervision role in urging the establishment of effective system for realizing the “Corporate Social Responsibility”.

**In China, compared to other western countries**, the situation is backward and stagnant in understanding and accepting the corporate social responsibility. Along with the establishment of socialist market economy and under the influence of the reform and open policy, especially after having joined the World Trade Organization, it is becoming more and more clarified that all the companies should be recalled to undertake the social responsibility and this request is considered popularly as objective and unavoidable

**This article has first proven the justice of** the Corporate Social Responsibility and the rightness in elaborating the relative legal regulation, the argument is as followed: on one hand, the individual company will certainly benefit from undertaking the social responsibility which concretely speaking will be demonstrated in realizing the profit demand of "the economic entity" of company, in harmonizing the polyvalent interest relationship between company stockholders which is inherent from the complex structure of shareholders' rights and in enhancing the efficiency of company operation. On the other hand, any company namely "the social people" is obliged to undertake the social responsibility, cause "the social principal and moral" requires every company to undertake its social responsibility, and equally the company has the obligation to promote the realization of social responsibility. Based on the argumentation in justifying the existence of corporate social responsibility, it is

further proven the rightness and the necessity of legislation in this regard. The law and the moral are seen as the social rules; however, the law is the threshold of morals. Since on the point of moral, it is not opposed to undertake the corporate social responsibility, then, in order to satisfy the human society's basic need in looking for development (for example guarantee of labor safety, control on pollution, consumer protection and so on), the corporate social responsibility has to be legalized to become a compulsory duty which the company will have to observe. At the same time, the objective reality of economical development urges the popularization of corporate social responsibility with a view to guarantee that during the process of self-value creation, the company could also play a positive role in advancing the economy growth of our country and enriching the content of people's daily life.

**In other countries and the European Union such as US, Germany and so on,** all have the practices contributing to shed some light in elaborating the legal regulation about corporate social responsibility. This present paper has introduced in detail the content of these practices, and summarized the experience overseas which may be profited from on our part in standardizing the legal system in regard of corporate social responsibility. The legal system on corporate social responsibility is the children of the really existing social demand. To note that in the content and the form of legalization, it is proposed to be diversified.

**Since the founding of P.R.C, the present situation of corporate social responsibility** legislation has displayed as the following: "The company undertakes the social responsibility" has been clarified and bounded by the law in view of the protection of relative shareholders and various investors, and of encouraging the company to undertake the social responsibility. Certainly, the legal regulation in our country about corporate social responsibility need to be unceasingly consummated, and several points need our attention: paying equal attention to the law and the morals about corporate social responsibility, rectify the value orientation in legislating the corporate social responsibility, enhancing the role played by the government



functional departments, the professional associations, the news media and the non-profit organization in standardizing and promoting the corporate social responsibility

**Benefiting from myself working experiences**, in my present paper, I would like to carry on the analysis about the social responsibility and practices fulfilled by the Sinochem Fertilizer Co.,Ltd. and I hope that this present paper will provide the reference for the ulterior consummation of construction of a solid corporate social responsibility system in the interior of Sinochem Fertilizer Co.,Ltd..

**Key words:** Company; Social responsibility; Legal regulation

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